



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,200	06/19/2001	Donald E. Weder	8403.411	3758

30589 7590 09/30/2002

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73114

EXAMINER

GELLNER, JEFFREY L

ART UNIT PAPER NUMBER

3643

DATE MAILED: 09/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,200

Applicant(s)

WEDER, DONALD E. *h*

Examiner

Jeffrey L. Gellner

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 5-10, 15, 21, 22 and 28-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 11-14, 16-20 and 23-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: _____

DETAILED ACTION

Acknowledgement is made of Applicant's IDS entered 6 July 2001.

Election/Restrictions

Claims 5-10, 15, 21,2, and 28-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected Species II-IV, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7, entered 9 September 2002. The election of species requirement is made final.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, in Claim 13 the "inner lip" of line 4 and the "outer lip" of line 5, and in Claim 27 the "insert configured to conform" of line 2 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The "gusset 21" of page 6 para. 31 of the Specification is not referenced in Fig. 4.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 12, 14, 16-20, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Wardwell (US 3,902,541).

As to Claim 1, Wardwell discloses a collapsible container (Figs. 1-5) comprising a plurality of rigid segments (14 of Fig. 4); and, means for connecting the rigid segments (18 of Fig. 3; col. 2 lines 9-13) such that the rigid segments define sidewalls (see Fig. 4) and the rigid segments are movable between an expanded position (Fig. 4) to form an object receiving space (see Fig. 30) and a collapsed position (see Fig. 1) wherein the sidewall is substantially flattened (defining Fig. 1 as flattened).

As to Claim 2, Wardwell further discloses the means for connecting comprising a flexible liner (18 of Fig. 3) attached to the rigid segments (col. 2 lines 9-11).

As to Claim 3, Wardwell further discloses an open upper end and closed lower end (see Fig.3).

As to Claim 4, Wardwell further discloses the liner a waterproof material (defining plastic as waterproof; col. 2 lines 9-11).

As to Claim 12, Wardwell further discloses the rigid segments with inner and outer surfaces, first and second longitudinal edges, and the edges angled so as to abuttingly engage one another (defining the rigid segments in Fig. 4 as abutting).

Art Unit: 3643

As to Claim 14, Wardwell further discloses the rigid segments with a substantially planar configuration (see Fig. 1).

As to Claim 16, Wardwell discloses a collapsible container (Figs. 1-5) comprising a flexible bottom panel (portion of 18 disclosed as bottom in of Fig. 3); plurality of rigid segments (14 of Fig. 4); and, means for connecting the rigid segments (18 of Fig. 3; col. 2 lines 9-13) such that the rigid segments define sidewalls (see Fig. 4) and the rigid segments and the bottom panel are movable between an expanded position (Fig. 4) to form an object receiving space (see Fig. 30) and a collapsed position (see Fig. 1; col. 2 lines 4-7) wherein the sidewall is substantially flattened (defining Fig. 1 as flattened).

As to Claim 17, Wardwell further discloses the means for connecting comprising a flexible liner (18 of Fig. 3) attached to the rigid segments (col. 2 lines 9-11).

As to Claim 18, As to Claim 2, Wardwell further discloses the flexible bottom panel as a portion of the flexible liner (see Fig. 3).

As to Claim 19, Wardwell further discloses an open upper end and closed lower end (see Fig.3) and the flexible bottom panel is the closed lower end of the flexible liner (see Fig. 3).

As to Claim 20, Wardwell further discloses the liner a waterproof material (defining plastic as waterproof; col. 2 lines 9-11).

As to Claim 24, Wardwell further discloses the rigid segments with inner and outer surfaces, first and second longitudinal edges, and the edges angled so as to abuttingly engage one another (defining the rigid segments in Fig. 4 as abutting).

Art Unit: 3643

Claims 1, 11, 16, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Schorpp (US 1,426,916).

As to Claims 1 and 11, Schorpp discloses a collapsible container (Figs. 1-5) comprising a plurality of rigid segments (3 of Fig. 1); and, means for connecting the rigid segments which are metal (3 of Fig. 1; col. 2 line 65) such that the rigid segments define sidewalls (see Fig. 1) and the rigid segments are movable between an expanded position (Fig. 1) to form an object receiving space and a collapsed position (see Figs. 4 and 5) wherein the sidewall is substantially flattened (defining Figs. 4 and 5 as flattened).

As to Claims 16 and 23, Schorpp discloses a collapsible container (Figs. 1-5) comprising a flexible bottom panel (region around 6 of Fig. 3); plurality of rigid segments which are metal (3 of Fig. 1; col. 2 line 65); and, means for connecting the rigid segments (2 of Fig. 1) such that the rigid segments define sidewalls (see Figs. 1 and 3) and the rigid segments and the bottom panel are movable between an expanded position (Fig. 1) to form an object receiving space and a collapsed position (see Fig. 5) wherein the sidewall is substantially flattened (defining Fig. 5 as flattened).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3643

Claims 13, 25, 26, and 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wardwell (US 3,902,541) Jannin (US 4,907,380).

As to Claim 13, the limitations of Claim 1 are disclosed as described above. Not disclosed are adjacent rigid segments having inner and outer lips which overlap when the segments are in the expanded position. Jannin, however, discloses a collapsible container that has inner and outer lips (see Fig. 5 for Examiner's inner and outer lips) which overlap (see Fig. 5) when the segments are in the expanded position (see Fig. 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the container of Wardwell by having the rigid members with overlapping lips as disclosed by Jannin so as to strengthen the container.

As to Claims 25 and 26, the limitations of Claim 16 are disclosed as described above. Not disclosed is a support means that is a flower pot being in the object receiving space. Examiner takes official notice that it is old and notorious well known to place flower pots in disposable bags when discarding. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the collapsible container of Wardwell by using for discarding of flower pots (see Wardwell at col. 1 lines 1-4).

As to Claim 27, the limitations of Claim 25 are disclosed above. Not disclosed is the support means being an insert configured to conform to the contour of the inner side of the rigid segments. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the collapsible container of Wardwell as modified by filling completely with refuse (defined as the insert) which would conform to the inner contours of the rigid segments.

Art Unit: 3643

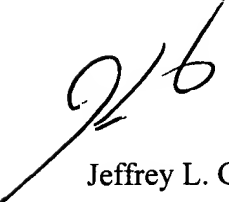
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Robbins III, Foshee, Johnson, Perkins, McGary, Wojciechowski, and JP11-206536 disclose in the prior art various containers with rigid segments. JP11-264284 disclose in the prior art rigid segments with lips.

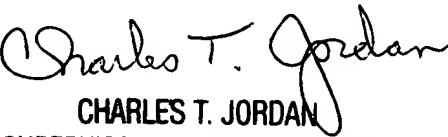
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The fax phone numbers for the Technology Center where this application or proceeding is assigned are 703.305.7687, 703.305.3597, and 703.306.4195.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.



Jeffrey L. Gellner



CHARLES T. JORDAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600